



Billing Code 3410-05-P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

United States Warehouse Act; Export Food Aid Commodities Licensing Agreement

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of Licensing Agreement Fee Schedule.

SUMMARY: This notice specifies the fee schedule for the new Export Food Aid Commodities (EFAC) licensing agreement offered by the Farm Service Agency (FSA) under the United States Warehouse Act (USWA). Agricultural products that may be stored under an EFAC licensing agreement include, but are not limited to, corn soy blend, vegetable oil, and pulses such as peas, beans, and lentils. USWA licensing is a voluntary program. Warehouse operators that apply for USWA licensing agree to be licensed, comply with the licensing agreement, and pay associated user fees. The fees announced in this notice are intended to cover the costs of administering the licensing program, including the costs of inspections.

DATE: Effective date: **[Insert date of publication in the FEDERAL REGISTER].**

FOR FURTHER INFORMATION CONTACT: Patricia Barrett, Warehouse Operations Program Manager; phone: (202) 720-3877, email: FSA-USWA@wdc.usda.gov.

Persons with disabilities who require alternative means for communication of information for this notice (Braille, large print, audiotope, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

USWA (7 U.S.C. 241-256) authorizes the Secretary of Agriculture to license warehouse operators who store agricultural products and to assess warehouse operator fees. FSA administers this authority for USDA. The USWA licensing program is intended to protect depositors of agricultural products by ensuring that licensed warehouses meet specified requirements for sanitation, physical security, equipment maintenance, recordkeeping, insurance, and financial soundness. The licensing agreement specifies the terms and conditions for a warehouse operator to qualify for licensing and to operate the warehouse in compliance with the USWA and with federal regulations in 7 CFR part 735.

The USWA requires the Secretary to assess fees to cover the cost of implementing the program. FSA has different types of USWA licensing agreements, with storage and inspection requirements and fees that are specific to the purpose of the license and the commodities to be stored.

On March 15, 2011 (76 FR 13972-13973), FSA published a notice in the Federal Register proposing a licensing agreement for EFAC warehouse operators. The notice requested comments on the licensing requirements and fee structures that would be appropriate for EFAC licensing agreements. Three comments were received; two did not address the fee structure. One comment stated that there should be no fees. In response to this comment, FSA notes that USWA requires the assessment of fees to cover the cost of implementing the program.

This notice announces the fee schedule for the EFAC licensing agreement. Both the fee schedule and the licensing agreement will be posted on the FSA website at <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=coop&topic=was-ua>.

The EFAC licensing agreement will be available to port and transload facility operators storing or handling EFAC. This licensing agreement was developed in response to concerns of export food aid providers; specifically, the sanitation and security of agricultural commodities temporarily stored and handled in preparation for export under various food aid programs. In many existing USWA licensed warehouses, commodities such as grain or rice are stored in bulk form and commingled. In contrast, EFAC are typically packaged products that are stored on an “identity preserved” basis, meaning that specific quantities must be stored and handled separately from all other commodities to allow for the subsequent delivery of the actual commodity delivered for warehouse storage. The fee structure for EFAC reflects that requirement. For example, USWA warehouse fees typically include a separate “service license” fee to license individuals to inspect and weigh commodities, but this is not an applicable fee category for EFAC.

The fees provided in this notice are intended to cover the costs of the EFAC warehouse examination and inspection program. The warehouse examination and inspection program is designed to ensure the warehouse operator’s initial qualification for licensing and continuing compliance with the regulations and the licensing agreement. FSA will conduct examinations and inspections of licensed facilities as specified in the

EFAC licensing agreement. Inspections will be conducted to determine the suitability of a facility for proper storage and handling of EFAC. Examinations will include, but are not limited to, review of warehouse records, pest management and control, housekeeping, safety, and security of goods in the care and custody of the licensee. The personnel conducting the examinations will verify that all commodities are properly marked and recorded in the warehouse records, and that commodities are stored in licensed space. Facilities must be kept and maintained in sound physical condition.

USWA fees vary by type of warehouse, and are based on estimates of FSA costs for warehouse examinations and inspections for that type of warehouse. The fee schedule for EFAC was developed based on the anticipated time needed to review license applications and amendments, and to conduct inspections and subsequent examinations. FSA will review the fee schedule periodically to ensure that fees collected will cover associated FSA operational costs, and may revise the schedule accordingly. Any changes to the fee schedule will be posted on the FSA website and announced in the Federal Register. The fee schedule will also be included as an attachment to the licensing agreement. The initial EFAC fee schedule includes the following licensing, annual, and inspection fees.

Licensing Fees

Section 4(a) of the USWA states, “The Secretary shall assess persons covered by this Act fees to cover the costs of administering the Act.” The application fee for original

issuance, reissuance, or duplication of a license for EFAC is \$100 for each license issued. A license, and the corresponding licensing agreement, may cover multiple locations under one license, subject the approval of the FSA Deputy Administrator for Commodity Operations (DACO).

Annual User Fees

Annual user fees are assessed based on the cost for site visits to conduct warehouse examinations to determine continued compliance with the terms of the licensing agreement and the USWA. Annual user fees will be assessed independently of application fees and inspection fees. The annual user fee will be \$1500 for 1 to 3 locations, plus \$300 for each additional location operated under the same licensing agreement.

Inspection Fees

Inspection fees are assessed to recover the costs of administering the USWA. The inspection fees are assessed for site visits to determine initial suitability for storage of EFAC. Fees will be assessed for each original examination or inspection and for amendment examinations to modify an existing license. The inspection fee will be \$1000 for 1 to 3 locations, plus \$300 for each additional location operated under the same licensing agreement. Fees for additional or special examination services, including

requested examinations or examinations due to adverse conditions, will be assessed at an hourly rate as determined by FSA.

USWA fees for EFAC are provided in the following table:

United States Warehouse Act Fee Schedule – Export Food Aid Commodities (EFAC)	
Licensing Fee	\$100
Inspection Fee, 1 to 3 Locations.....	\$1000
Inspection Fee, each additional location over 3	\$300
Annual User Fee, 1 to 3 Locations	\$1500
Annual User Fee, each additional location over 3.....	\$300

General information about FSA administration of its responsibilities related to the USWA is available on FSA's website, at the following link:

<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=coop&topic=was-ua>. In addition to useful information such as policy and procedural details, the website includes a listing of licensed warehouses.

Signed on December 7, 2011

Carolyn B. Cooksie
Acting Administrator,
Farm Service Agency.

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